

IC 8-9.5-8

Chapter 8. Indiana Transportation Finance Authority

IC 8-9.5-8-1

Definitions

Sec. 1. As used in this chapter:

"Authority" refers to the Indiana transportation finance authority established under section 2 of this chapter.

"Department" refers to the Indiana department of transportation established under IC 8-23-2.

"Toll bridge" means a bridge with approaches, avenues of access, fills, causeways, and connecting bridges or ferries under IC 8-16-1.

"Toll road project" has the meaning specified in IC 8-15-2-4(4).
As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.5; P.L.18-1990, SEC.104.

IC 8-9.5-8-2

Creation; powers

Sec. 2. The Indiana transportation finance authority is established, and by that name, the authority may sue and be sued and plead and be impleaded. The authority is a body both corporate and politic, and though separate from the state, the exercise by the authority of its powers constitutes an essential governmental function.

As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.6.

IC 8-9.5-8-3

Members; appointment; officers; expenses; vacancies; quorum

Sec. 3. (a) The authority consists of the following members:

- (1) The governor, or the governor's designee, who shall serve as chairman.
- (2) The commissioner of the Indiana department of transportation, who shall serve as secretary-treasurer.
- (3) The budget director.
- (4) The treasurer of state.
- (5) Five (5) members appointed by the governor, no more than three (3) of whom may be of the same political party, who:
 - (A) must be residents of Indiana;
 - (B) serve for terms of two (2) years, and until their successors are appointed and qualified; and
 - (C) may be reappointed by the governor.

(b) The members of the authority shall elect one (1) of the individuals appointed under subsection (a)(5) to serve as vice chairman and one (1) of the other members appointed under subsection (a)(5) to serve as assistant secretary-treasurer.

(c) Members are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with their duties as provided by law. Members are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) while performing their duties.

(d) The governor shall fill a vacancy for the unexpired term of any member appointed under subsection (a)(5).

(e) Five (5) members constitute a quorum. The affirmative votes of at least five (5) members, one (1) of whom must be the chairman or secretary-treasurer, are necessary for any action to be taken by the authority.

As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.7; P.L.112-1989, SEC.1.

IC 8-9.5-8-4

Duties

Sec. 4. (a) The authority is responsible for the construction, reconstruction, improvement, maintenance, operation, and repair of toll roads under IC 8-15-2 and toll bridges under IC 8-16-1.

(b) The authority shall classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a contract is awarded for the work.

As added by P.L.109-1983, SEC.3. Amended by P.L.12-1984, SEC.4.

IC 8-9.5-8-4.1

Code of ethics

Sec. 4.1. (a) The authority shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

As added by P.L.5-1996, SEC.9.

IC 8-9.5-8-5

Feasibility studies

Sec. 5. (a) The authority shall study the need for and feasibility of constructing a new toll road under IC 8-15-2 or a new toll bridge under IC 8-16-1 only after receiving the approval of the commissioner of the Indiana department of transportation.

(b) If a study conducted under IC 8-15-2-20 indicates that a toll road project would have a substantial and positive impact, the authority shall recommend to the commissioner of the Indiana department of transportation that the toll road project be initiated.

As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.8; P.L.112-1989, SEC.2.

IC 8-9.5-8-6

Contracts or leases; requisite provisions

Sec. 6. (a) With respect to each toll road project and each toll bridge, the authority may enter into:

(1) a contract with the department under section 7 of this chapter for any or all of the purposes enumerated in section 7(b) of this chapter; or

(2) a lease with the department under section 8 of this chapter for any or all of the purposes enumerated in section 8(b) of this chapter.

(b) If the authority determines that the department is not complying with a contract or lease:

(1) the authority shall reassume responsibility for the construction, reconstruction, improvement, operation, maintenance, and repair of the toll road project or toll bridge; and

(2) the contract or lease shall be terminated by the authority.

(c) If the authority enters into a contract or lease with the department as provided in subsection (a), the contract or lease must contain, in addition to the requirements of section 7 or 8 of this chapter, the following:

(1) A description of the toll road project or toll bridge setting forth in general terms its principal features, such as geographic location, terminal points, widths of rights-of-way, number of lanes in each direction, width of traffic lanes, widths of shoulders, location and nature of access points, tunnels, overpasses, underpasses, interchanges, bridges, entrance plazas, approaches, connecting highways, and tollhouses.

(2) Provisions for construction, reconstruction, or improvement of the toll road project or toll bridge.

(3) Provisions for operation, maintenance, and repair of the toll road project or toll bridge in accordance with any applicable trust agreement.

(4) Provisions requiring the toll road project or the toll bridge to be managed as a unit separate from any other district or division of the department.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-7

Contracts; purposes; requisite additional provisions

Sec. 7. (a) If the authority and the department decide to enter into a contract as authorized under section 6 of this chapter for the purposes enumerated in subsection (b), the authority and the department shall enter into a separate contract for each toll road project or toll bridge.

(b) The contract may be entered into for any or all of the following purposes:

(1) The construction of the toll road project or toll bridge.

(2) The reconstruction of the toll road project or toll bridge.

(3) Improvements to the toll road project or toll bridge.

(4) The maintenance of the toll road project or toll bridge.

(5) Repairs to the toll road project or toll bridge.

(6) The operation of the toll road project or toll bridge.

(c) In addition to the provisions required to be included under section 6 of this chapter, the contract must include the following:

(1) A provision for the collection of tolls and their deposit in a designated depository to the account of the authority or to the

account of a trustee in accordance with any applicable trust agreement.

(2) A provision for the purchase by the department on behalf of the authority of property, machinery, and equipment required to carry out the contract, along with provision that such property, machines, and equipment:

- (A) remain the property of the authority;
- (B) shall be maintained by the department;
- (C) shall be identified as the property of the authority;
- (D) shall be used exclusively in connection with the performance of the contract; and
- (E) shall be accounted for by the department to the authority at specified times.

(3) A provision authorizing the department to enter into contracts with third parties for carrying out the contract and requiring all such contracts to be in the name of the department but performed on behalf of the authority.

(4) A provision requiring the department to:

- (A) maintain records and books of account reflecting the receipts and disbursements under the contract and the assets of the authority relating to the toll road project or toll bridge; and
- (B) prepare or have prepared all books, records, and any reports required to be prepared, maintained, or delivered under any applicable trust agreement.

(5) Provisions for the payment by the authority to the department of:

- (A) the cost of construction, reconstruction, or improvement undertaken under the contract; and
- (B) the cost of maintenance, repair, and operation under the contract.

These costs include all costs incurred by the department in the performance of the contracts (such as salaries, wages, and associated costs of department personnel attributable to performance of the contract).

(6) Provisions for the payment to the department from time to time of funds necessary to maintain a revolving fund balance of not less than two hundred thousand dollars (\$200,000) to be used in paying costs incurred under the contract so that the department is not required to advance funds for the cost of performance.

(7) A provision stating that the contract is for a term of not more than two (2) years and is extended for successive two (2) year periods, unless either party gives notice of its intention to terminate the contract not later than six (6) months before the end of a two (2) year term.

(8) Such other terms and conditions as the authority and the department consider appropriate.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-8

Leases; purposes; requisite additional provisions

Sec. 8. (a) If the authority and the department decide to enter into a lease as authorized under section 6 of this chapter for the purposes enumerated in subsection (b), the authority and the department shall enter into a separate lease for each toll road project or each toll bridge.

(b) The lease may be entered into for any or all of the following purposes:

- (1) The construction of the toll road project or toll bridge.
- (2) The reconstruction of the toll road project or toll bridge.
- (3) Improvements to the toll road project or toll bridge.
- (4) The maintenance of the toll road project or toll bridge.
- (5) Repairs to the toll road project or toll bridge.
- (6) The operation of the toll road project or toll bridge.
- (7) The conversion to a toll road project of a state highway transferred to the authority under IC 8-23-7-23.

(c) In addition to the provisions required to be included under section 6 of this chapter, the lease must include the following:

- (1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes, with a fractional period when the lease begins if necessary.
- (2) A statement that the term of the lease is extended from biennium to biennium, unless either the authority or the department gives notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.
- (3) A statement of all toll road bonds or toll bridge bonds of the authority that are outstanding or that are to be issued by the authority related to the toll road project or toll bridge for which the lease is entered.
- (4) Provisions requiring the department to pay the costs of operating, maintaining, and repairing the toll road project or toll bridge, including major repairs, replacements, and improvements.
- (5) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full the debt service payable under the terms of the toll road bonds or toll bridge bonds issued and outstanding with respect to the toll road project or toll bridge, including any required additions to reserves maintained by the authority, and to pay additional rent as provided by the lease.
- (6) Provisions requiring the department to fix, impose, and collect tolls on the toll road project or toll bridge that are at least sufficient, together with other money available to the department, to pay:
 - (A) the cost of operation, maintenance, and repair, including major repairs, replacements, and improvements; and
 - (B) the rent to be paid under the lease.

However, the obligation of the department to pay the costs of operation, maintenance, and repair of a toll road project or toll bridge and to pay rent during the term is not limited to the tolls collected or that should be collected by the department but is subject only to the appropriation of funds therefore by an act of the general assembly.

(7) Provisions requiring:

(A) tolls and other revenues collected by the department to be segregated from all other funds under the control of the department; and

(B) the department to make a separate accounting of all receipts and disbursements under the lease.

(8) Provisions requiring the department to maintain all books and records and to prepare and deliver all reports required of the authority under the terms of any applicable trust agreement.

(9) Such other terms and conditions as the authority and the department consider appropriate.

As added by P.L.109-1983, SEC.3. Amended by P.L.386-1987(ss), SEC.1; P.L.18-1990, SEC.105.

IC 8-9.5-8-9

Tolls; imposition and collection

Sec. 9. The authority shall fix, impose, and collect tolls for the use of a toll road in the manner prescribed in IC 8-15-2 and for the use of a toll bridge in the manner prescribed by IC 8-16-1, except when the toll road project or toll bridge is leased to the department under section 8 of this chapter.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-10

Toll road or toll bridge bonds authorized; limitations

Sec. 10. (a) Except as provided in section 11 of this chapter, the authority may issue toll road bonds under IC 8-15-2 or toll bridge bonds under IC 8-16-1 only:

(1) after obtaining the approval of the commissioner of the Indiana department of transportation;

(2) after the general assembly has, based on the recommendations of the commissioner of the Indiana department of transportation, provided for the issuance of the bonds by establishing in an act the maximum aggregate principal amount of bonds that the authority may issue;

(3) after the authority has delivered to the budget agency a written guarantee that the aggregate amount of attorney's fees for the particular proposed bond issue will not exceed two-tenths of one percent (0.2%) of the principal amount of the proposed issue of toll road and toll bridge bonds; and

(4) with the approval of the budget committee, the budget agency, and the governor.

(b) The authority may include money from the rural transportation road fund as a source of revenue in the performance of contracts and

leases with the Indiana department of transportation under IC 8-23-2-6(a)(3). Revenues from that allocation may be used in the determination of the feasibility of a toll road or toll bridge project. *As added by P.L.109-1983, SEC.3. Amended by P.L.386-1987(ss), SEC.2; P.L.112-1989, SEC.3.*

IC 8-9.5-8-11

Issuance of additional bonds

Sec. 11. Notwithstanding section 10 of this chapter, if:

- (1) a bond issue of the authority provides an amount less than the amount necessary to complete the toll road project or the toll bridge project for which the bonds were issued; and
- (2) the trust agreement securing the bond issue provides that additional bonds may be issued to secure additional funds to provide the amount necessary to complete the project;

the authority may, without the approval of the parties listed in section 10 of this chapter, issue additional bonds to provide the funds necessary to complete the project.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-12 Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-13

Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-14

Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-15

Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-16

Rural transportation road fund

Sec. 16. (a) The rural transportation road fund is established as a special revenue fund to be administered by the transportation finance authority.

(b) The money in the rural transportation road fund at the end of any state fiscal year does not revert to any other fund.

(c) The treasurer of state may invest the money in the rural transportation road fund in the manner provided by law for investing money in the state general fund.

(d) The rural transportation road fund is to be used only for the purpose of supplementing the revenues received by the transportation finance authority as tolls imposed for the use of any toll road or toll bridge project.

As added by P.L.386-1987(ss), SEC.3. Amended by P.L.68-1988,

SEC.9.

IC 8-9.5-8-17

Assistance for military veterans or disabled persons

Sec. 17. The authority shall study and implement programs to assist in the transportation of military veterans or disabled persons (as defined in IC 6-1.1-12-11) who travel on a toll road to or from a hospital for treatment. However, a program may not be inconsistent with the trust indenture securing the bonds of the toll road.

As added by P.L.83-1996, SEC.1.